

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking Into the)
Review of the California High Cost)
Fund-B Program) R. 06-06-028

**COMMENTS OF
THE
CALIFORNIA CABLE & TELECOMMUNICATIONS ASSOCIATION
REGARDING SCOPING AND SCHEDULING OF PHASE II ISSUES**

The California Cable & Telecommunications Association hereby files the following Comments regarding the Scoping and Scheduling of Phase II Issues.¹ As discussed below, and in response to the two core issues raised in Phase II, CCTA urges the Commission to implement a reverse auction and forego any update to the cost proxies used to compute support because implementation of a reverse auction process is not dependant upon updates to a cost model. CCTA also urges the Commission to structure its reverse auction to ensure that it is competitively- and technologically- neutral.

**1. THE COMMISSION SHOULD IMPLEMENT A REVERSE
AUCTION TO DETERMINE THE APPROPRIATE LEVEL OF
SUPPORT**

The *Phase II Scoping Order* begins with the recognition that HM 5.3 is inherently flawed by its narrow ability to model only “traditional voice-centric technology.”² In part because of its inherent weakness, the Commission initiated Phase II to conduct the first-in-the-nation reverse auction to determine support levels. The Commission did not

¹ Assigned Commissioner’s Ruling Regarding the Scoping and Scheduling of Phase II Issues 06-06-028, filed October 5, 2007 (“*Phase II Scoping Order*”).

² *Phase II Scoping Order* at 2.

completely abandon the possibility of conducting a “cost model update,” however, and instead chose to ask whether such an exercise could be useful in combination with a reverse auction process:

Nonetheless, the Commission recognized that it may be necessary to proceed with cost proxy updating at least on a limited basis in coordination with implementing the reverse auction. Accordingly, comments are solicited on the appropriate manner in which to sequence and prioritize respective tasks involved in implementing a reverse auction and updating relevant high-cost proxies, recognizing the inherent limitations in the HM 5.3 modeling approach.³

As a threshold issue, it is important to fully appreciate that the “inherent limitations in the HM 5.3 modeling approach” is a polite reference to a fatal flaw: The model no longer estimates the cost of forward-looking technology. Carriers are not deploying copper-based, voice-centric networks, but instead are deploying converged *all-media* networks, where voice imposes a trivial claim on the capacity of the network. Because HM 5.3 no longer estimates the cost of a forward-looking architecture, there is virtually no value in determining what the cost would be to build from scratch a network using obsolete technology, because no such network will be built again. Accordingly, the Commission should *reject* any further reliance on the model, and first conduct a reverse auction to judge whether or not increased support is justified.

To the Commission’s credit, CCTA does not read its *Phase II Scoping Order* as endorsing what we believe to be a fruitless effort of updating HM 5.3 to determine new support levels. Rather, the Commission was clear that it is interested in learning whether an updated HM 5.3 could assist the Commission for a very limited purpose – namely, designing a reverse auction process:

³ *Phase II Scoping Order* at 2. Emphasis added.

Because our priority is to implement a reverse auction, we shall consider the timing, nature, and extent of cost proxy model updating primarily in the context of providing necessary parameters for setting the appropriate bounds of reverse auction bids, and/or to provide cost support in areas where the auction has not yet been implemented or where no carrier bids to provide basic service below the cost proxy level.⁴

As to the first possible initial use for HM 5.3 (setting bounds on the reverse auction), the HM 5.3 is not useful to establish *a priori* limits on the parameters of the reverse auction. The purpose of the reverse auction is to determine a market-based support amount where multiple carriers are in a position to bid. The estimated cost provided by HM 5.3 (even if subsequently updated) should not constrain open bidding by competitors in those areas where multiple networks (including packet and wireless networks) exist.

As a result, CCTA recommends that the Commission first conduct a reverse auction. The results from such an auction – most particularly the ability to constrain overall subsidies by awarding a bid to the most efficient service provider – will necessarily inform the Commission as to whether there is justification for increasing support elsewhere. For instance, if its reverse auction indicates that market-based support levels are systematically lower than the levels of support provided today, the Commission could reasonably conclude that increases elsewhere are not appropriate. Indeed, one option available to the Commission would be to adjust all support levels based on the ratio of bid-support/existing-support, without the need to conduct additional cost analysis.

⁴ *Phase II Scoping Order* at 5. To begin, although the *Phase II Scoping Order* asks the general question as to *whether* HM 5.3 should be updated, we note that the Order then lists *specific* questions that appear to assume such an update is warranted by requesting comment on model adjustments might be used to prevent anomalous results.⁴ In our view, it is the threshold question that is still most relevant – that is, *whether* the Commission should divert its attention and resources to an HM 5.3 analysis before implementing its reverse auction. And the answer to this question remains no – the Commission cannot correct the architectural flaw in the HM5.3 merely by updating inputs.

2. **NEW TECHNOLOGIES MUST BE INCLUDED IN THE REVERSE AUCTION.**

The second area addressed by our comments concerns the importance of designing auction rules and procedures to enable alternative technologies, most notably those relying on managed-packet and wireless technologies, to fully participate in the auction process. The fundamental goal of an auction mechanism is to establish a market-based support. The more participants in the bidding process, the more efficient the market will be in determining the minimum support needed to provide service.

It is not our purpose here to propose detailed rules or requirements. We believe that it is most appropriate for the likely bidders to work cooperatively with the Commission to establish specific processes to conduct the auction. However, just as the Commission should not rely on HM 5.3 because of its narrow ability to model only a voice-centric wireline network, it is critical that the Commission fully open the auction to the replacement technologies that underlie modern networks.

Two specific technologies must be represented in the auction: wireless networks and networks based on managed-packet technology. We will leave it to the wireless carriers to discuss the importance of their networks; our focus is on the facilities-based managed- packet networks typically provisioned using fiber optics.

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Most importantly, our concern is that the auction rules not favor a particular technology, nor favor the traditional technology deployed by incumbent local providers. Technological neutrality and competitive neutrality are core standards that the Commission should consider in designing its reverse auction rules.

Respectfully submitted,

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November 9, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this day I served a copy of the *COMMENTS OF THE CALIFORNIA CABLE AND TELECOMMUNICATIONS ASSOCIATION REGARDING SCOPING AND SCHEDULING OF PHASE II ISSUES*, together with this Certificate of Service, upon the following parties, by causing a copy hereof to be delivered via E-mail upon all parties in the proceeding R.06-06-028.

Executed on November 9, 2007 at 360 22nd Street #750, Oakland CA 94612

/S/ Maria Politzer
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